

March 23, 2011

VIA ELECTRONIC FILING

Jocelyn Boyd, Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Bonnie D. Shealy
1901 MAIN STREET, SUITE 1200
POST OFFICE BOX 944
COLUMBIA, SOUTH CAROLINA 29202
PH
(803) 779-8900 | (803) 227-1102 *direct*
FAX
(803) 252-0724 | (803) 744-1551 *direct*
bshealy@robinsonlaw.com

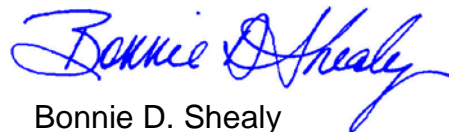
**Re: Duke Energy Carolinas - Amended Project Development Application
Case No. 2011-20-E**

Dear Jocelyn:

Enclosed for filing please find Duke Energy Carolinas, LLC's Objection to Petition to Intervene of Tom Clements. By copy of this letter we are serving the same on the parties of record in this proceeding. Should you have any questions, please contact me.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.


Bonnie D. Shealy

/bds
Enclosures

cc/enc: Nanette Edwards, Esquire (via email & U.S. Mail)
Courtney Edwards, Esquire (via email)
Scott Elliott, Esquire (via email & U.S. Mail)
Robert Guild, Esquire (via email & U.S. Mail)
Mr. Tom Clements (via email & U.S. Mail)
Timika Shafeek-Horton, Associate General Counsel (via email)
Alex Castle, Senior Counsel (via email)

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2011-20-E

In re:)	
)	
Amended Project Development Application)	DUKE ENERGY CAROLINAS, LLC'S
of Duke Energy Carolinas, LLC for Approval)	OBJECTION TO PETITION TO
of Decision to Incur Nuclear Generation Pre-)	INTERVENE OF TOM CLEMENTS
Construction Costs)	
)	

Pursuant to 26 S.C. Code Regs. § 103-825, Duke Energy Carolinas, LLC (“Duke Energy Carolinas” or “Company”) opposes and objects to the Petition to Intervene of Tom Clements (“Clements”) filed on March 18, 2011. Duke Energy Carolinas requests that the Public Service Commission of South Carolina (“Commission”) deny Clements’ petition to intervene. In support of its objection, Duke Energy Carolinas shows the following:

This docket involves Duke Energy Carolinas’ application for approval of the Company’s decision to continue to incur additional pre-construction costs for the proposed William States Lee, III Nuclear Station in Cherokee County, South Carolina (“Lee Nuclear Station”). On March 18, 2011, Tom Clements filed a “Petition to Intervene” in this docket. Duke Energy Carolinas respectfully requests that the Commission deny Clements’ petition because he lacks standing to intervene in this proceeding.

According to the Petition to Intervene, Clements indicated that he lives in Columbia, South Carolina. Therefore, he does not live within the service area of Duke Energy Carolinas. According to Duke Energy Carolinas’ customer service records, Mr. Clements does not have an account with the Company. *See attached* Affidavit of Barbara Yarbrough, **Exhibit 1**.

Clements makes several assertions in an attempt to establish that he has standing to intervene in this proceeding. As explained below, these assertions relate to general public interests, not the private interest needed to establish a personal stake in the outcome of the case.

ARGUMENT

Clements fails to meet the threshold required to qualify as an intervenor. At a fundamental level, a party must have standing to participate in a Commission proceeding. For a party to have standing, the party must have a personal stake in the outcome that is not too contingent, hypothetical or improbable to support standing. *See Duke Power Co. v. S.C. Public Service Com'n*, 284 S.C. 81, 326 S.E.2d 395, 405 (1985).

Because Clements is not an electric customer of Duke Energy Carolinas, he cannot establish a personal stake in the outcome as a ratepayer or customer of the Company. “[A] potential intervenor must have a ‘personal stake’ in the outcome of the case before he or she may present his own case.” *In re: Application of South Carolina Electric & Gas Co. for Increases and Adjustments in Electric Rate Schedules and Tariffs*, Order No. 2010-221, p. 2.

Clements has asserted several “direct interests” in the Lee Nuclear project to show that he has a connection to the case. However, a review of his assertions illustrates that he has failed to make the requisite showing to establish standing.

First, he states that he is “potentially” downwind from any nuclear reactors that might be constructed at the Lee Nuclear Station. He also states that he consumes water from the Broad River into which cooling water from the proposed reactors would be discharged. Clements also contends that he engages in recreational activities in the area of the Broad River very near the proposed site. These assertions relate to general interests common to all members of the public in the State of South Carolina and represent prospective, conjectural concerns of potential future

harm, not actual or imminent concerns of a personal nature. *See Sea Pines Ass'n for Protection of Wildlife v. S.C.Dept. of Natural Resources*, 345 S.C. 594, 550 S.E.2d 287 (Sup. Ct. 2001).

Clements then alleges that he has a direct interest in promoting conservation, efficiency and alternatives. He also alleges that he has a direct interest because “it has been reported that Duke could ‘possibly’ have interest in participating in the South Carolina Electric & Gas nuclear project....” He then cites news releases and his own comments to the media and his professional interest in the proceeding because of his affiliations with several organizations. These allegations not only fail to establish a personal stake, but simply defy credibility. At best, Clements has a technical, but not personal interest, in support of intervention in this proceeding. A technical interest is insufficient grounds to establish standing. “A real party in interest is one who has a real, actual, material, or substantial interest in the subject matter of the action, as distinguished from one who has only a nominal, formal, or technical interest in, or connection with, the action.” *Ex Parte Government Employee’s Insurance Company*, 373 S.C. 132, 644 S.E.2d 699, 702 (Sup. Ct. 2007).

The petition also cites concern about the impact of the Lee Nuclear Project to the environment, public health, ratepayers and to the financial soundness of the Company. These are all matters of public, not private, interests. The South Carolina Office of Regulatory Staff (“ORS”) is charged with protecting the public interest and is a statutory participant in this proceeding. It is ORS’s statutory duty to consider the concerns of the using and consuming public and balance those interests with economic development and the preservation of the financial integrity of the Company. S.C. Code § 58-4-10 (Supp. 2010). As a result, ORS’s participation in this proceeding adequately addresses any public interest concerns expressed by Clements.

CONCLUSION

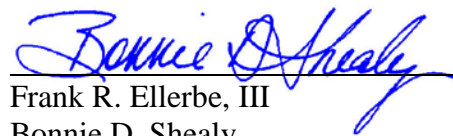
Clements is not a Duke Energy Carolinas' customer, and his allegations are insufficient to establish a personal stake in the proceeding. Consequently, Clements has failed to meet the threshold required to establish standing to intervene in this case. Therefore, his petition to intervene should be denied.

Dated this 23rd day of March, 2011.

Timika Shafeek-Horton, Deputy General Counsel
Charles A. Castle, Senior Counsel
Duke Energy Carolinas, LLC
Post Office Box 1006
Charlotte, North Carolina 28201-1006
Telephone: 704-382-6373 (Shafeek-Horton)
704-382-4295 (Castle)
timika.shafeek-horton@duke-energy.com
alex.castle@duke-energy.com

and

Robinson McFadden, & Moore, P.C.



Frank R. Ellerbe, III
Bonnie D. Shealy
1901 Main Street, Suite 1200
Post Office Box 944
Columbia, South Carolina 29201
Telephone: (803)779-8900
fellerbe@robinsonlaw.com
bshealy@robinsonlaw.com

Attorneys for Duke Energy Carolinas, LLC

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2011-20-E

In re:

Amended Project Development Application
of Duke Energy Carolinas, LLC for
Approval of Decision to Incur Nuclear
Generation Pre-Construction Costs

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**AFFIDAVIT OF BARBARA G.
YARBROUGH**

PERSONALLY appeared before me, Barbara G. Yarbrough, who first being duly sworn did state as follows:

1. My name is Barbara G. Yarbrough and I am employed by Duke Energy Carolinas, LLC ("Duke Energy Carolinas") as Rates Director. I am responsible for directing the proper administration of Duke Energy Carolinas' rate schedules and service regulations and the Public Service Commission of South Carolina's ("Commission") rules and regulations.

2. This affidavit is based upon my personal knowledge and review of documents received and maintained in the ordinary course of business by Duke Energy Carolinas. I am familiar with the records of Duke Energy Carolinas that pertain to its customers.

3. I conducted a search and review of the Company's records and determined that Tom Clements is not an electric customer of Duke Energy Carolinas.

FURTHER AFFIANT SAYETH NOT.

Dated this 22nd day of March, 2011.

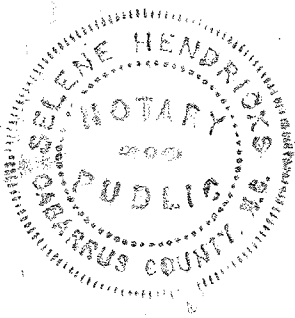
DUKE ENERGY CAROLINAS

Barbara G. Yarbrough
Barbara G. Yarbrough
Rates Director

SWORN TO BEFORE ME

This 22 day of March, 2011.

Scelene Hendricks
Scelene Hendricks
Notary Public for North Carolina
My Commission Expires: 4-26-2011



BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2011-20-E

In Re:

Amended Project Development
Application of Duke Energy Carolinas,
LLC for Approval of Decision to Incur
Nuclear Generation Pre-Construction
Costs

CERTIFICATE OF SERVICE

This is to certify that I, Leslie L. Allen, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Duke Energy Carolinas, LLC's Objection to Petition to Intervene of Tom Clements** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

Nanette S. Edwards, Chief Counsel
Shannon Hudson, Esquire
Courtney D. Edwards, Esquire
Office of Regulatory Staff
1401 Main Street Suite 900
Columbia, SC 29201

Mr. Tom Clements
1112 Florence Street
Columbia, SC 29201

Scott A. Elliott, Esquire
Elliott & Elliott, PA
1508 Lady Street
Columbia, SC 29201

Robert Guild, Esquire
314 Pall Mall
Columbia, SC 29201

Dated at Columbia, South Carolina this 23rd day of March, 2011.



Leslie L. Allen